

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN AND EASTERN DIVISIONS

UNITED STATES BANKRUPTCY COURT
WESTERN DIVISION

FILED

OCT 28 2003

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In re

ADOPTION OF ELECTRONIC CASE
FILING AND IMPLEMENTATION
OF ELECTRONIC CASE AND PROCEEDING
FILING PROCEDURES.

JED G. WEINTRAUB
CLERK OF COURT
WESTERN DISTRICT OF TENN.

Miscell. No. 03-0004

STANDING ORDER RE "ECF"

Effective upon assignment of a login and password to the Electronic Case Filing system by January 12, 2004, by virtue of F. R. CIV. P. 5(e) and FED. R. BANKR. P. 5005(a)(2), this Court shall begin accepting all cases, proceedings, pleadings, motions, memoranda of law and any other documents filed with this Court using the Electronic Case Filing System ("ECF") in a manner consistent with technical standards, if any, established by the Judicial Conference of the United States and this Standing Order. Signatures and verification of signatures shall be obtained in a manner consistent with FED. R. BANKR. P. 9011 and Item Nos. 2 and 9 of the rules and procedures as outlined herein.

Exceptions to the foregoing shall include:

- On or after January 12, 2004, documents filed by an attorney who is not yet a participant of ECF shall be filed on diskette or CD in PDF format, rather than on paper. (See Item No. 2 of the procedures outlined below and Guideline 9 of the Guidelines for Electronic Filing attached hereto.)
- Unless otherwise ordered by the Court, documents filed by any *pro se* debtor, *pro se* creditor or *pro se* litigant (See Guideline 7 of the Guidelines for Electronic Filing attached hereto.)
- Documents filed under seal. (See Guideline 10 of the Guidelines for Electronic Filing attached hereto.)

To implement this system, the Court herewith adopts the rules and procedures set forth below:

1. The Administrative Procedures Manual/Guidelines for Electronic Filing (attached hereto as "Attachment A") has been presented to this Court, and is hereby approved in its current form. Subsequent amendments may be made to these Guidelines as needed.
2. The electronic filing of a petition, pleading, motion, claim, or any other document by an attorney or party who is a registered participant in the Electronic Case Filing system, or filing by diskette or CD in pdf format by a party not participating in ECF, shall constitute the signature of that attorney or party under FED. R. BANKR. P. 9011(a) and other applicable rules.

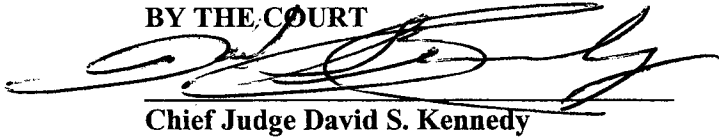
3. No filing user or other person shall knowingly permit or cause to permit a Filing User's password to be used by anyone other than an agent of the Filing User authorized to use such log-in and password.
4. The electronic filing of a pleading or any other document in accordance with the Guidelines shall constitute entry of that pleading or other document on the docket maintained by the Clerk of Court in accordance with F. R. CIV. P. 79 and FED. R. BANKR. P. 5003 and 5005.
5. The Office of the Clerk shall enter all court orders, decrees, judgments, and amendments, if any, in accordance with the Guidelines, which shall constitute entry of the order, decree, judgment or proceeding on the docket maintained by the Clerk under F. R. CIV. P. 58 and FED. R. BANKR. P. 9021.
 - a. Whenever a pleading, motion, or any other document is filed electronically in accordance with the Guidelines, the ECF system will provide a "Notice of Electronic Filing," by electronic means at the time of filing, or shortly thereafter. If a petition is filed with an incorrect social security number, the attorney of record will be responsible for serving the credit bureaus with the correction.
 - b. The Court shall serve the pleading or any other document upon all persons entitled to notice or service in accordance with the applicable rules, which include electronic service (eMail), fax, first class mail, or hand-delivered.
 - c. If the intended recipient of a notice, pleading, electronic filing, or other document is a registered participant in the Electronic Case Filing System, service by electronic means of the Notice of Filing shall be the equivalent of service of the pleadings or other document(s) by first class mail, postage prepaid.
6. Participation in the Electronic Case Filing System by receipt of a password provided by the Court shall constitute a request for service and notice by electronic means pursuant to F. R. CIV. P. 5(b)(2)(D) and FED. R. BANKR. P. 9036. Participants in the Electronic Case Filing System, by possessing a password from the Court, agree to receive notice and service by electronic means both from the Court and from other ECF participants and further agree that service by traditional means, i.e. Bankruptcy Noticing Center, may be discontinued at a later time chosen by the Court.
7. Any order filed and signed electronically and hence without the original signature of a judge shall have the same force and effect as if the judge had affixed his/her signature to a paper copy of the order.
8. Attorneys practicing before this Court shall maintain in their records all pages of documents, electronically filed with the court, that contain original signatures of the debtor or joint debtor for five (5) years after the case or adversary proceeding is closed, in accordance with Guideline No. 5 for electronic filing.

9. Tendered orders submitted to the court shall be submitted electronically in a manner consistent with Guideline 9 of the Guidelines for Electronic Filing attached hereto.
10. In the event of critical situations such as failure of the electronic filing system, the Clerk may elect to temporarily accept filings via diskette or CD in PDF format at the intake counter, or, in the event of after hours filing, via the drop box.
11. If the Clerk's Office or Judge deems it necessary to electronically scan a paper document into the Court's electronic filing system, the electronically scanned document shall then constitute the official record of the Court. Once scanned, the paper document will be discarded unless a request for the return of such document, along with a self-addressed envelope with first class postage, is provided by the party filer.
12. Nothing contained in this Standing Order is intended or shall be construed to alter or modify any party's duties and responsibilities under the provisions of the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure.

Based on the foregoing,

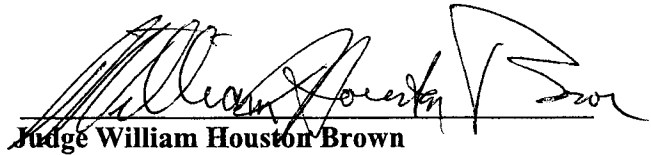
IT IS SO ORDERED this 28th day of October, 2003,
effective October 28, 2003.

BY THE COURT



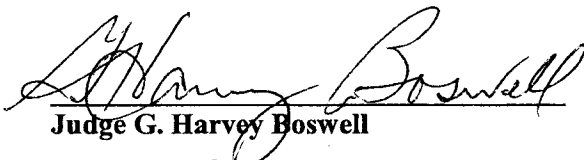
Chief Judge David S. Kennedy

Date: 10-28-03



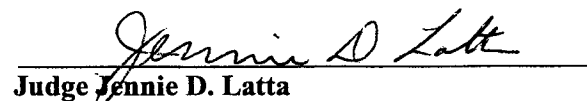
Judge William Houston Brown

Date: 10-28-03



Judge G. Harvey Boswell

Date: 10-28-03



Judge Jennie D. Latta

Date: 10-28-03

United States Bankruptcy Court
WESTERN DISTRICT OF TENNESSEE

Administrative Procedures Manual- Exhibit to Standing Order, Miscell. No. 03-0004

GUIDELINES FOR ELECTRONIC FILING

Guideline No. 1 - Attorney Password

After completing training prescribed by the Court, attorneys admitted to practice before this Court, the U.S. Trustee, and his assistants, private trustees, and others as the Court deems appropriate, must register as filing users of the Court's Electronic Filing System by filling out and returning this Court's Application for Attorney Password (ECF Guidelines Form 1).

An attorney (or the staff person thereof) who exceeds the number of errors allowed to maintain the integrity of the Court docket, will be required to attend retraining. Recertification must occur within (60) sixty days of being notified. While waiting to be re-certified, documents will be filed by such attorney(s)(or the staff persons thereof) via diskette or CD in PDF format. If not re-certified within (60) sixty days of notification, an exception for not filing ECF should be sought from the Court.

No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an agent of the Filing User authorized to use such log in and password.

Guideline No. 2 - Limited Use Password

The following filers shall obtain a Limited Use Password by filing (ECF Guidelines Form 2):

- Attorneys appearing *pro hac vice*;
- Individuals authorized to prepare and file proofs of claim;
- Individuals authorized to file reaffirmation.
- Individuals authorized to file on behalf of interested parties.

No Limited User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an agent of the Filing User authorized to use such log in and password.

Guideline No. 3 - Method of Filing and Payment of Fees

- a) Fees may be paid by attorneys filing electronically by credit card in accordance with guidelines established by the U. S. Treasury Department, *when documents are filed electronically*. Payments made at the Clerk's Office will be as follows:

Memphis	-	business check, money order or cash
Jackson	-	business check or money orders <i>only</i>

- b) Fees may be paid by business check, money order, or certified check and must be tendered to the Clerk's Office on the date of electronic filing or by the close of business the next day.

Guideline No. 4 - Verification of Petitions and Accompanying Papers

Debtors. The signatures of a debtor or joint debtors upon all verifications or unsworn declarations accompanying petitions, statements, schedules, and amendments thereto shall be made upon the documents filed electronically of record on the docket of the Court by means of a signature designation: "/s/(name of signatory)," or, if the declaration, verification, etc., is on diskette or CD in PDF format.

Creditors. The signatures of creditors upon the verification or unsworn declaration will be made upon the claims filed electronically of record on the docket or claims register by means of a signature designation: "/s/(name of signatory)," or on diskette or CD in PDF format.

Other Parties; Other Persons; Attorneys: The signatures of all other parties, persons, entities, and of all attorneys upon verifications, unsworn declarations, and affidavits shall be made upon the documents to be filed electronically of record on the docket of the court by means of a signature designation: "/s/(attorneys' name)," or on diskette or CD in PDF format.

Guideline No. 5 - Maintaining Original Documents Containing Original Signatures.

Attorneys practicing before this Court shall maintain all pages, of any petitions, statements, schedules, amendments, verifications, declarations, or affidavits that contain original signatures for five (5) years after the case or proceeding is closed.

Guideline No. 6 - Filing Proofs of Claim and Interests

Effective January 12, 2004, all proofs of claims, supporting documentation and interests must be filed in paper format with the Bankruptcy Clerk's Office. Effective October 1, 2004, Chapter 13 creditors will have the ability to file claims and interests electronically. All other creditors will

be able to file electronically as soon as they are capable. Creditors may then apply to the Court for a limited use login ID. All electronic case files will include electronic claims registers. Claims and interests may be filed from remote locations at any date and time according to electronic procedures. Claims and interests may be filed at the Court Clerk's Office Monday through Friday, 8:30 a.m. to 4:30 p.m., except holidays, and posted closings, according to established procedures for filing electronic proofs of claim. In cases filed with over 1000 creditors, the Court may require the debtor to retain a claims agent.

Guideline No. 7 - Filing and Transmitting Documents

Initially, petitions, pleadings, and other documents may be filed at the U. S. Bankruptcy Court Clerk's Office, in either Memphis or Jackson, Monday through Friday, from 8:30 a.m. to 4:30 p.m., except holidays, and posted closings, for those persons filing documents by diskette/CD in PDF format, until such time as they may begin filing documents online. Documents may be filed electronically via the internet from remote locations twenty-four (24) hours per day, seven (7) days per week.

A pro se debtor(s), without legal representation, filing petitions, schedules, statements, amendments, pleadings, affidavits, and other documents which must contain original signatures, or which require verification under FED. R. BANKR. P. 1008, or an unsworn declaration as provided in 28 U.S.C. §1746, must submit these documents with full signature. These documents will be processed by the Clerk's Office, and shall be maintained according to procedures established by the Clerk of Court. The pro se debtor(s) will be responsible for appropriate noticing in accordance with Federal Rules of Bankruptcy Procedure or Local Bankruptcy Rules.

Guideline No. 8 - Certificate of Service

In the event that a document is not served by the Court, each entity electronically filing a pleading or other document must verify "Notice of Electronic Filing" to parties entitled to service or notice under the Federal Rules of Bankruptcy Procedure and the Local Rules of this court. The "Notice of Electronic Filing" must be transmitted by eMail, hand-delivered, facsimile, or by first-class mail postage prepaid. Electronic transmission of the "Notice of Electronic Filing" constitutes service or notice of the filed document, in accordance with Federal Rules of Bankruptcy Procedure or the Local Bankruptcy Rules.

Parties who have not consented in writing to electronic service of documents or notice must be served with a paper copy of any electronically filed pleading or other document. Filers may be required in some instances to separately serve eMail notice to the U. S. Trustee, and/or Trustee according to FED. R. BANKR. P. 9034.

Guideline No. 9 - Proposed Orders; Method of Submission

All proposed orders, decrees, judgments, and proceedings of the Court will be filed in accordance with FED. R. BANKR. P. 5003 and 9021. All judicially signed orders will be filed electronically by the Court or Court personnel. Any order entered electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket.

Those not yet registered to file electronically may submit a proposed order on a diskette or CD in the appropriate PDF format (by mailing or delivering) to the Clerk's Office.

Guideline No. 10 - Confidentiality of Certain Information

Documents under seal must be filed on CD in PDF format. An electronic motion should be filed with the court, unless prohibited by law. Once the proposed Order is approved and filed by the court, a copy of the approved Order should be placed on top of the documents under seal and filed conventionally with the Court Clerk's Office. The document(s) will not become part of the electronic record. Upon instructions from the judge, the Clerk's Office will note the record(s) appropriately.

When captioning cases, (e.g., use of social security numbers) FED. R. BANKR. P. 1005 and any revisions shall apply.

Guide No. 11 - Transcripts

An electronic sound recording is made of any proceeding before a judge. This sound recording constitutes the "official court record," and remains the official court record even if a transcript is prepared therefrom. FED. R. BANKR. P. 5007(A) requires that a person preparing a transcript shall file a certified copy of that transcript with the Court. A transcript is not recorded, conventionally or electronically, to the case docket. Therefore the Court will retain said copy only for the purpose of transmission of record on appeal. (*i.e.*, if a party designates a transcript as part of the record on appeal, the Court will forward this copy to the appropriate appellate court. No additional copy need be supplied by the appellant/appellee.)

Guideline No. 12 - Attachments and Exhibits to Pleadings And to Proofs of Claims or Interests.

Filers should submit all exhibits and/or attachments to pleadings and proof of claims or interests in electronic format unless the attachment to the pleading or proof of claim or interests exceeds twenty (20) pages or if the attachment to the pleading or proof of claim or interests cannot be converted to electronic format.

If the attachment to the pleading or proof of claim or interests exceeds twenty (20) pages or cannot be converted to electronic format, then the filer shall attach a summary of exhibit or attachment (ECF Guidelines Form 3) only to the document that is filed electronically.

If a hearing is required, or if the Court otherwise orders, the filer shall provide the complete exhibit or attachment to the Court in such format as the Court directs and in the time frame directed by the Court. Exhibits introduced into evidence in relation to any contested matter will still be governed by L.B.R. 9072-1.

In all cases or proceedings the filer shall provide the opposing party or the objecting party with a complete set of the exhibits and/or attachments.

Guideline No. 13 - Filing of Ballots in Chapter 9 and Chapter 11 Cases

Ballots shall be filed with the attorney of record for the Chapter 9 and Chapter 11 plan proponent for the purpose of providing the court with a total ballot count. The attorney will then provide to the Clerk of Court a statement attesting to the total ballot count electronically.

Guideline No. 14 - Depositions and Interrogatories

These documents are governed generally by the applicable Federal Rules of Civil Procedure as incorporated in Federal Rules of Bankruptcy Procedure Part VII and in accordance with L.B.R. 7026-1.

Guideline No. 15 - Public Access to Court Electronic Records (PACER)

The public will have access to electronic case records at the U. S. Bankruptcy Court at both Memphis and Jackson via public terminals provided at the Clerk's Office locations, at no charge, during regular business hours.

Although any person can retrieve and view electronically filed documents within the system and access information from it without charge at the Clerk's Office(s), electronic access to the system for viewing purposes is otherwise limited to subscribers to the Public Access to Court Electronic Records (PACER) system and, in accordance with the ruling of the Judicial Conference of the United States, a user fee will be charged for accessing certain detailed case information, such as reviewing filed documents and docket sheets.

The public may access the electronic filing system at the court's internet site, ecf.tnwb.uscourts.gov, by obtaining a PACER login and password. Information regarding subscribing to PACER is available at the PACER Website at www.pacer.psc.uscourts.gov. A

person who has PACER access may retrieve docket sheets and documents. Only an attorney who has been issued a password or an entity which has been issued a limited use password may file documents electronically.

Paper Copies and Certified or Exemplified Copies of electronically filed documents may be purchased at the Office of the Clerk. The fee for copying and certification will be in accordance with the Judicial Conference Bankruptcy Court Miscellaneous Fee Schedule accompanying 28 U.S.C. §1930(b). Fee information may be found on our website at www.tnwb.uscourts.gov.

Guideline No. 16 - Technical Failure

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.